

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	
THE METROPOLITAN DISTRICT)	
OF HARTFORD, CONNECTICUT,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff, the United States of America, by the authority of the Attorney General, through its undersigned attorneys, and at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges:

INTRODUCTION

1. This is a civil action brought against The Metropolitan District of Hartford, Connecticut ("MDC" or "Defendant") pursuant to Sections 309(b) and (d) of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1319(b) and (d).
2. The claims against the Defendant arise from the MDC's failure to comply with the CWA in the operation of the sanitary/wastewater collection systems tributary to the Hartford Water Pollution Control Facility ("HWPCF"), located in Hartford, Connecticut and the Rocky Hill Water Pollution Control Facility ("RHWPCF"), located in Rocky Hill, Connecticut.

3. This Court has jurisdiction over the subject matter of this action pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and pursuant to 28 U.S.C. §§ 1331, 1345, and 1355.
4. Venue is proper in this district pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 1395(a).
5. Authority to bring this action is vested in the United States Department of Justice under 28 U.S.C. §§ 516 and 519.
6. Notice of the commencement of this civil action has been given to the State of Connecticut Department of Environmental Protection, in accordance with Section 309(b) of the CWA, 33 U.S.C. § 1319(b).

DEFENDANT

7. The MDC is a non-profit municipal corporation created by Connecticut law with jurisdiction over disposal of sewage.
8. The MDC is a “municipality” within the meaning of Section 502(4) of the Act, 33 U.S.C. § 1362(4).
9. The MDC is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

CLEAN WATER ACT STATUTORY SCHEME

10. The CWA is a comprehensive statute designed to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). To achieve that goal, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into navigable waters of the United States except in compliance with the terms and conditions of a National Pollutant Discharge Elimination System

(“NPDES”) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. The term “discharge of a pollutant” is defined as “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).

11. Section 402 of the CWA, 33 U.S.C. § 1342, establishes the NPDES permit program, and authorizes the Administrator of EPA to issue permits for the discharge of pollutants into navigable waters. Administration of the federal NPDES permit program was duly delegated to the State of Connecticut in 1973, pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b). Connecticut’s authority for the issuance of permits is established at Section 22a-430 of Chapter 446k of the Connecticut General Statutes.
12. The Defendant discharges pollutants from the HWPCF to the Connecticut River pursuant to NPDES Permit No. CT0100251. The State of Connecticut last re-issued the NPDES permit to the Defendant on October 24, 2005 (“HWPCF Permit”).
13. The HWPCF Permit authorizes the MDC to discharge wastewater from the HWPCF to the Connecticut River through its main outfall 001, subject to certain terms and conditions. The HWPCF Permit also authorizes discharges from additional locations to the Connecticut River which are combined sewer overflow outfalls within the MDC’s sewage collection system, identified in Attachment 3 to the HWPCF Permit.
14. The HWPCF’s main outfall 001 and its combined sewer overflow outfalls are “point sources” within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).
15. The Defendant also discharges pollutants from the RHWPCF to the Connecticut River pursuant to NPDES Permit No. CT0100480. The State of Connecticut last re-issued the RHWPCF NPDES permit to the Defendant on August 1, 1997. (“RHWPCF Permit”).

16. The RHWPCF Permit authorizes the MDC to discharge wastewater from the RHWPCF to the Connecticut River through its main outfall 001, subject to certain terms and conditions.
17. The RHWPCF's main outfall 001 is a "point source" within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).
18. The Connecticut River constitutes "navigable waters" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

CLAIMS FOR RELIEF
FIRST CLAIM - UNAUTHORIZED DISCHARGES

19. The United States realleges and incorporates by reference paragraphs 1 through 18 above.
20. Since at least October 1, 1999, and on numerous occasions thereafter and continuing at least until the filing of this Complaint, the MDC has discharged untreated or partially untreated sewage to navigable waters through point sources other than those authorized by the HWPCF Permit and the RHWPCF Permit (collectively "the Permits").
21. Untreated or partially untreated sewage contains pollutants within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).
22. The discharges described in paragraph 20 above originated from point sources within the Defendant's sanitary sewage collection systems. In particular, discharges have occurred from at least eight locations: (1) the Hartford Avenue Siphon Overflow Chamber in Newington; (2) the Goff Brook Overflow Chamber in Rocky Hill; (3) the Church Street Overflow in Wethersfield; (4) the Elm Street Overflow Chamber in Wethersfield; (5) the Hillcrest Overflow Chamber in West Hartford; (6) the Center Trunk Overflow to Trout Brook (CTS-2) in West Hartford; (7) the Center Trunk Overflow at Talcott Street (CTS-

3) in West Hartford; and, (8) the Windsor Interceptor Overflow Chamber (NM-1) in Hartford.

23. As a result of the discharges described in Paragraph 20 above, the Defendant has discharged pollutants in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), each day that it discharged untreated or partially treated sewage through point sources not authorized by the Permits.
24. Pursuant to Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), and the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, the Defendant is subject to injunctive relief and the assessment of civil penalties not to exceed \$27,500 for violations occurring between January 31, 1997 and March 15, 2004, and \$32,500 for violations occurring after March 15, 2004, for each day of each violation of the Permits and the CWA.

SECOND CLAIM - LATE REPORTING

25. The United States realleges and incorporates by reference paragraphs 1 through 24 above.
26. The Permits require the MDC to notify the State of Connecticut of any diversion of untreated or partially treated sewage from any portion of the sewage collection system within two hours and submit a written report to the State of Connecticut within five days of the diversion of untreated or partially treated sewage from any portion of the sewage collection system.¹
27. The discharges identified in Paragraph 20, above, constitute diversions of untreated or partially treated sewage within the meaning intended by the Permits.

¹ The MDC's HWPCF Permit that was in effect prior to October 24, 2005, required the MDC to notify the State of Connecticut of any diversion of wastewaters from any portion of the sewage collection systems "immediately" and submit a written report to the State of Connecticut within 72 hours of the diversion of wastewaters from any portion of the sewage collection systems.

28. Since at least October 1, 1999, and on numerous occasions thereafter and continuing at least until the filing of this Complaint, the Defendant submitted written reports concerning unauthorized diversions after the maximum time allowed in the HWPCF Permit and the RHWPCF Permit for reporting these occurrences in violation of the requirements of the HWPCF Permit and the RHWPCF Permit.
29. Each day after the maximum time allowed in the HWPCF Permit and the RHWPCF Permit for reporting an occurrence that the Defendant failed to submit a written report of an unauthorized diversion constitutes a separate violation of the HWPCF Permit and the RHWPCF Permit and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).
30. Pursuant to Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), and the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, the Defendant is subject to injunctive relief and the assessment of civil penalties not to exceed \$27,500 for violations occurring between January 31, 1997 and March 15, 2004, and not to exceed \$32,500 for violations occurring after March 15, 2004, for each day of each violation of the Permits and the CWA.

RELIEF SOUGHT

31. Wherefore, Plaintiff, the United States of America, respectfully requests that the Court:
- A. Order the Defendant to properly operate and maintain its wastewater collection systems;
 - B. Permanently enjoin the Defendant from discharging pollutants through point sources not authorized by the Permits;
 - C. Order the Defendant to pay a civil penalty not to exceed \$27,500 per day for each violation occurring between January 31, 1997, and March 15, 2004, and to pay a

civil penalty not to exceed \$32,500 per day for each violation occurring after March 15, 2004;

D. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

SUE ELLEN WOOLDRIDGE
Assistant Attorney General
Environment and Natural Resources Division

HENRY S. FRIEDMAN
Senior Attorney
Federal Bar No. CT15542
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, DC 20044
(202) 514-5268

KEVIN J. O'CONNOR
United States Attorney
District of Connecticut

Lisa E. Perkins
Assistant United States Attorney
U.S. Attorney's Office
Hartford Office
450 Main Street, Room 328
Hartford, Connecticut 06103
Tel.: (860) 947-1101
Fed. Bar No. CT23164
lisa.perkins@usdoj.gov

OF COUNSEL

JEFFREY KOPF

Office of Environmental Stewardship

U.S. Environmental Protection Agency, Region I

1 Congress St., Suite 1100, SEL

Boston, MA 02114-2023